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OFFICE OF PETITIONS

In re Application of :
Paolo M. B. Tiramani :
Application No. 10/633,118 : DECISION GRANTING
Filed: August 1, 2003 : PETITION UNDER 37 C.F.R.
Attorney Docket No. AW-2 : \$1.137(b)
Title: BAG AND METHOD OF MOVING :

This is a decision on the petition filed February 24, 2006, pursuant to 37 C.F.R. §1.137(b)¹, to revive the above-identified application.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed August 9, 2005, which set a shortened statutory period for reply of three (3) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on November 10, 2005.

¹ A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

37 C.F.R. §1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 C.F.R. §1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 C.F.R. §1.137(b)(3) and petitioner must notify the Office if this is not a correct interpretation of the statement contained in the instant petition.

The present petition was received on February 17, 2006, along with the petition fee and a Request for Continued Examination (RCE) under 37 C.F.R. §1.114 as well as the associated fee and a statement which is being construed as the proper statement of unintentional delay. No terminal disclaimer is required. Petitioner has further submitted an amendment.

Petitioner appears to be under the mistaken impression that the Office action of August 9, 2005 constituted a final action. Petitioner has entitled his petition "Petition to Revive Application Abandoned Unintentionally for Failure to Reply to a Final Rejection." It is noted in passing that no final rejection has been issued in this case.

The RCE will not be entered, for prosecution in the present application is not closed. See 37 C.F.R. §§1.114(a) and (b). The associated fee will be refunded to his Deposit Account, as authorized in the petition.

The concurrently submitted amendment has been accepted as the required reply. As such, the petition is **GRANTED**.

The Technology Center will be made aware of this decision so that the concurrently presented amendment can be processed.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.



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